

### **REMARKS/ARGUMENTS**

The Applicant respectfully requests reconsideration of the present Application in view of the foregoing amendments and in view of the reasons that follow.

This amendment may add, change, and/or delete claims in this Application. A detailed listing of claims that are, or were, in the Application, irrespective of whether claims remain under examination in the Application is presented, with an appropriate defined status identifier.

#### **Status of the Claims**

Claim 1 is currently amended.

Claims 1-5, 7, and 9-14 are now pending in this Application.

#### **Claim Rejections and Objections**

On page 3 of the Office Action, claims 1-5, 7 and 9-14 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Cook (J. Clin Microbiol. 2000 Dec;38(12):4326-31) in view of Chomczynski (5,345,994) and in further view of Majumdar (Biotechniques. 1991 Jul;11(1):94-101). With this amendment, claim 1 has been amended to recite, among other limitations, an admixture of “(i) an effective amount of a mono-phasic solution of phenol and guanidine isothiocyanate, and (ii) an effective amount of a lysis buffer.”

The office action states, “[w]ith regard to the admixture of solutions (i) and (ii), Cook expressly teaches that the CATRIMOX-TRIZOL method was performed on some [whole blood] samples without the two DEPC water washes. Thus within these methods, a CALITROX residue was present in the reaction vessel during the addition of TRIZOL reagent.” (internal

citations omitted). As previously pointed out, the prior art of record relates to RNA extraction from whole blood, whereas the present invention is related to RNA extraction from a bacterium sample. The differences in these two areas of the art are stark as the chemistry of the sample solutions involved and cell structures are completely different. There would be no reason to expect that the application of a method useful for the extraction of RNA from whole blood to an extraction of RNA from a bacterium would be fruitful.

Furthermore, as amended, the claims recite "an effective amount" of solutions (i) and (ii). The reliance by the Office in making its rejection based on the possible presence of residual amounts of one or more of these components in a prior art extraction of RNA from whole blood is misplaced. The potential presence of a residual amount of a reagent in the extraction of RNA from whole blood is not an enabling disclosure for the use of an effective amount of the reagent in the extraction of RNA from a bacterium.

Accordingly, the office action fails to make a prima face case of obviousness as no proper combination of the cited references teaches or suggests the combination of steps claimed. Applicant respectfully requests withdrawal of the rejection of claims 1-3, 5, 7, and 9-14.

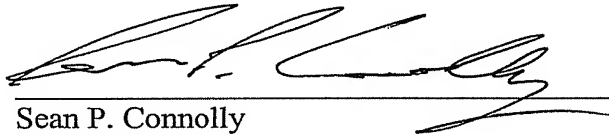
### **Conclusion**

Applicant respectfully submits the claims are in condition for formal allowance which is courteously solicited. If any issue regarding the allowability of any of the pending claims in the present application could be readily resolved, or if other action could be taken to further advance this application such as an Examiner's amendment, or if the Examiner should have any questions regarding the present amendment, it is respectfully requested that the Examiner please telephone

Applicant's undersigned attorney in this regard. Should any fees be necessitated by this response, the Commissioner is hereby authorized to deduct such fees from Deposit Account No. 11-0160.

Respectfully submitted,

Date: June 11, 2010

A handwritten signature in black ink, appearing to read "Sean P. Connolly", is written over a horizontal line.

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